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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

Missouri Plating Company
a.k.a. Gateway Plating Company and
Gros Plating Co., Inc.
2501 Texas Avenue
St. Louis, Missouri

**) CONSENT AGREEMENT
) AND FINAL ORDER**

Respondent.

Docket No. RCRA-07-2002-0193

Proceeding under Section 3008 (a) and (g) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. § 6928(a) and (g).

This proceeding was initiated on or about August 12, 2002, when the United States Environmental Protection Agency, Region VII ("Complainant" or "EPA") issued a Complaint, Compliance Order and Notice of Opportunity for Hearing ("Complaint") to Missouri Plating Company a.k.a. Gateway Plating Company and Gros Plating Co., Inc., and Gateway Plating, LLC., [hereinafter Missouri Plating]. Pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (hereinafter known as RCRA), Title 42 United States Code (U.S.C.), Section 6901 et seq., the Complainant sought civil penalties for alleged violations of 40 Code of Federal Regulations (C.F.R.), Sections 262.11 and 262.34 incorporated by reference in 10 C.S.R. 25-5.262(1) and 10 CSR 25-5.262(2).

The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Complaint.

II. CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order. The terms of this Consent Agreement and the Final Order shall not be modified except by a subsequent written agreement between the parties.
2. Respondent admits the jurisdictional allegations of the Complaint and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order set forth below.
3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in the Complaint.
4. Respondent waives its right to further contest the factual allegations and legal conclusions set forth in the Complaint in this or subsequent proceedings to enforce the terms of this Consent Agreement and Final Order, and agrees not to appeal the Final Order set forth below.
5. Respondent explicitly waives its right to a hearing on any issue of fact or law set forth in EPA's Complaint.
6. Respondent and EPA each agree to bear their own costs and attorneys' fees.
7. Respondent agrees that, in settlement of the claims alleged in the Complaint, Respondent shall pay a civil penalty of ZERO DOLLARS (\$0) because Respondent has demonstrated an inability to pay any penalty.
8. This Consent Agreement and Final Order shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA Region VII. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.
9. Respondent understands that failure to complete the Compliance Actions described in the Final Order within the designated timeframes may, among other things, subject Respondent to civil penalties up to \$27,500 per day of non-compliance.
10. This Consent Agreement and the Final Order shall remain in full force and effect until Complainant's representative designated in Paragraph III.B.1. of the Final Order provides Respondent with written notice, in accordance with Paragraph III.E.7. of the Final Order, that all requirements hereunder have been satisfied.
11. Each signatory of this Consent Agreement and Final Order certifies he or she is fully

authorized to enter into the terms of the Consent Agreement and Final Order.

III. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

A. Compliance Actions

Respondent shall take the following actions within the specified time periods, and according to the terms and conditions, specified below.

1. Posting of Emergency Numbers: Within thirty (30) days of the effective date defined in paragraph II.8. above, Respondent will provide proof of posting of the following next to the telephone; 1) the name and telephone number of the emergency coordinator, 2) location of fire extinguishers and spill control material, and if present fire alarms, and 3) the telephone number of the fire department unless the facility has a direct alarm as required in 40 CFR Part 262.34(d) as incorporated by reference in 10 CSR 25-5.262(2)(C).

2. Sampling & Analysis: Within ninety (90) days of the effective date defined in paragraph II.8. above, Respondent shall submit a Sampling & Analysis Plan to EPA for review and approval. Such plan shall be designed to determine whether hazardous chromium waste or hazardous chromium has been released into the environment at or from the drum storage area portion of the facility where the alleged 24 containers of D007 characteristic hazardous waste (waste chrome plating sludge and waste chrome plating solutions) were stored. The Sampling and Analysis Plan shall include a Quality Assurance Project Plan (QAPP) which addresses quality assurance, quality control, and chain of custody procedures in accordance with "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations" (EPA QA/R-5 (March 2001)), as well as other such applicable guidance identified by EPA. The Sampling and Analysis Plan shall state that Method SW 846-6010 shall be utilized and that clean-up standard of 400 mg/kg chromium shall be used. The Plan shall also include at a minimum:

- (a) a description of the sampling procedures that will be used;
- (b) included provisions for ensuring that samples are collected and analyzed using EPA-approved protocols;
- (c) a description of the number and type of samples to be collected;
- (d) a description of the method(s) of collection and analysis;
- (e) a discussion of the criteria for determining the sampling locations;
- (f) provide a scaled map showing the locations where samples will be taken;
- (g) provide the name and address of the laboratory where the samples will be shipped to

- for analysis;
- (h) a list of the hazardous constituents for which each sample will be analyzed, from among the compounds listed at 40 C.F.R. Part 261, Appendix VIII, Hazardous Constituents, based on the composition of the hazardous waste that was stored at the facility;
- (i) a set of proposed Clean-up Performance Standards, which, if approved by EPA, will be utilized to both determine whether cleanup of a particular constituent described in paragraph (h) above is required, and as a benchmark to determine whether such cleanup, if it is required, has been achieved;
- (j) provide a schedule for implementation of the Sampling and Analysis Plan and reporting the results to EPA.
3. Respondent shall provide EPA with fourteen (14) days written advance notice prior to conducting any field activities.
4. Upon receipt of the Sampling and Analysis plan, EPA will review the Sampling and Analysis plan to determine whether it satisfies the requirements of paragraph III.A.2. above. EPA will approve, provide comments and/or modify the Sampling and Analysis plan, consistent with paragraph III.B.3.
5. Upon receipt of EPA's approval of the Sampling and Analysis Plan, Respondent shall implement such plan in accordance with the schedule contained therein.
6. If the analytical results identified in the EPA-approved Sampling Report show that hazardous constituents are present in the sampled media at levels in excess of the Clean-up Performance Standards, then within thirty (30) days after receiving a notice from EPA that further remediation actions must be taken at the facility, Respondent shall submit a Remediation Work Plan to EPA which details how Respondent will remediate the identified contamination, including, at a minimum, removal, decontamination and/or remediation of the hazardous constituents and contaminated media. Such Remediation Work Plan shall be subject to EPA review and approval which review and approval shall not be unreasonably conditioned, delayed or withheld. Such Remediation Work Plan shall contain a schedule for implementation of the Remediation Work Plan and for the submission of a Remediation Report to EPA. The Remediation Report shall also be subject to EPA review and approval. If the analytical results identified in the EPA-approved Sampling Report show that hazardous constituents are not present in the sampled media at levels in excess of the Clean-up Performance Standards, then EPA will issue a written notification to Respondent that, based on the data Respondent has furnished to EPA, no further action is required.

B. Submittals

1. Respondent shall submit all documents and other correspondence required to be

submitted to EPA by this Final Order to:

Brian Mitchell
Air, RCRA and Toxics Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

2. EPA shall submit any notices or correspondence related to this Consent Agreement and Final Order to:

Roy Gros
Gateway Plating, LLC.
2501 Texas Avenue
St. Louis, MO

with copy to:

James Niemann, Esq.
Niemann Law Firm
Two City Place Drive
Suite 200
St. Louis, MO 63141

3. The EPA will review each submission of a plan or report by Respondent, and notify Respondent in writing of EPA's approval or disapproval of the plan or report, or any part thereof. Approvals shall not be unreasonably delayed, conditioned, or withheld. If a submission is disapproved in whole or in part by EPA, EPA will provide written comments to Respondent explaining the basis for its decision. Within thirty (30) days of receipt of EPA's comments pertaining to any submission, or within such longer time as the Parties may agree, Respondent shall amend/revise the disapproved submission, addressing all of EPA's comments, and resubmit same to EPA. If EPA disapproves the revised submission, EPA may modify and approve the same in accordance with its previous comments. In the event of such modification and approval, EPA will notify Respondent of the modification/approval.

C. Access

1. The EPA and its authorized representatives shall have access to the Facility at all reasonable times to monitor Respondent's implementation of, and compliance with, the terms of this Final Order. Nothing herein shall be construed to limit EPA's access authority under RCRA or any other law.

D. Parties Bound

1. This Final Order shall apply to and be binding upon EPA and Respondent and both parties' agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

E. Reservation of Rights

1. This Consent Agreement and Final Order addresses all administrative matters alleged in EPA's August 12, 2002, Complaint, Docket No. RCRA-07-2002-0193. EPA reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

2. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed twenty-seven thousand five hundred dollars (\$27,500) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

3. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and both parties reserve the right to enforce the terms and conditions of this Consent Agreement and Final Order to the extent allowed by law.

4. Except as expressly provided herein, including the provisions of Section D of this Consent Agreement and Final Order, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from Respondent's facility.

5. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

6. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.
7. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

For the Respondent:

Roy D. Gros

Name: *Roy D. Gros*

Printed Name

Title: *Member, Gateway Plating, LLC*

f/k/a Missouri Plating Company, Gateway Plating Company and Gros Plating Co., Inc.

For the Complainant:

The United States Environmental Protection Agency

Kristina Kemp

Kristina Kemp

Assistant Regional Counsel

4.25.03

Date

William A. Spratlin

William A. Spratlin, Director

Air, RCRA and Toxics Division

5/1/03

Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

Robert Patrick

Robert Patrick

Regional Judicial Officer

May 1, 2003

Date

IN THE MATTER OF Missouri Plating Company a.k.a. Gateway Plating Company and Gros Plating
Co., Inc., Respondent
Docket No. RCRA-07-2002-0193

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following
manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

James M. Niemann, Esq.
The Niemann Law Firm, P.C.
Two City Place Drive, Suite 200
St. Louis, Missouri 63141

Copy by Facsimile and First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

Dated: 5/1/03



Kathy Robinson
Regional Hearing Clerk